

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 93-468-C - ORDER NO. 94-82 *jc*

JANUARY 25, 1994

IN RE: Application of Equal Net Communications,)	
Inc. for a Certificate of Public)	ORDER
Convenience and Necessuty to Operate as)	APPROVING
a Reseller of Intrastate Telecommunications)	CERTIFICATE
Within the State of South Carolina.)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Equal Net Communications, Inc. ("Equal Net" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of telecommunications services in the State of South Carolina. Equal Net's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Law. Co-op. 1976), as amended, and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Equal Net to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Equal Net's Application and of the manner and time in which to file the appropriate pleadings for participation in these proceedings. Equal Net complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

Petitions to Intervene were filed by Southern Bell Telephone and Telegraph Company ("Southern Bell") and the Consumer Advocate for the State of South Carolina (the "Consumer Advocate"). Southern Bell's subsequent Motion to Withdraw from this proceeding was granted by the Commission in Order No. 93-976 dated October 20, 1993. The Consumer Advocate has now filed a letter stating it no longer desires to participate at a hearing in this matter.

Dean H. Fisher, Vice President and Treasurer of Equal Net, submitted verified testimony and an affidavit on behalf of Equal Net. Mr. Fisher explained Equal Net's request for authority to provide intrastate interexchange telecommunications services in South Carolina. Mr. Fisher stated that Equal Net is a non-facility based reseller which will resell the Distributed Network Services (DNS), Software Defined Network (SDN), and 800 services of AT&T, its underlying carrier. AT&T will provide the network, switches, operator service, and directory assistance to Equal Net's customers, and Equal Net will provide customer service to its customers. Mr. Fisher also explained that while AT&T handles the billing of Equal Net's customers, questions concerning billing could be addressed to either AT&T's billing subsidiary or to Equal Net's customer service department.

Mr. Fisher also testified that Equal Net plans to offer its services throughout the entire state of South Carolina, and that Equal Net will primarily market its services to business customers. Mr. Fisher explained that Equal Net proposes to serve the small business market by offering services at prices not available directly from the long distance carriers such as AT&T, MCI, and

Sprint. Mr. Fisher also stated that Equal Net does not provide 900 services nor does it have plans to provide such services. Also, Mr. Fisher said that Equal Net does not offer alternative operator services.

Mr. Fisher admitted that Equal Net has completed unauthorized intrastate traffic prior to certification by the Commission. Mr. Fisher testified that the revenues billed for the completion of unauthorized intrastate traffic is \$13,444.44. Mr. Fisher also stated that Equal Net would return the funds it collected for unauthorized intrastate traffic.

After full consideration of the applicable law, the Application, and the testimony and affidavit submitted by Equal Net, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Equal Net is incorporated under the laws of the State of Texas and is licensed to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. Equal Net operates as a non-facilities based reseller of interexchange services and wishes to do so in South Carolina.
3. Equal Net has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Equal Net to provide intrastate service through the resale of Wide Area Telecommunications Services (WATS),

Message Telecommunications Services (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for Equal Net for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984). The Commission adopts Equal Net's proposed maximum rate tariff.

3. Equal Net shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. Equal Net shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of Equal Net's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Law Co-op. 1976), as amended.

4. The Commission concludes that the Consumer Advocate's letter stating its intention not to participate in a hearing in this matter is tantamount to a request to withdraw intervention. The Commission further concludes that the Consumer Advocate's request to withdraw from these proceedings should be granted.

5. Equal Net shall file its tariff and an accompanying price list within thirty (30) days of the date of this Order. Further, the tariff shall be filed in a loose-leaf binder.

6. Equal Net is subject to access charges pursuant to Commission Order 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

7. With regard to Equal Net's resale of service, an end user should be able to access another interexchange carrier or operator service provider, if they so desire.

8. Equal Net shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Equal Net changes underlying carriers, it shall notify the Commission in writing.

9. Equal Net shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).


10. Equal Net shall refund to its customers all charges collected by it for the completion of intrastate telephone calls prior to the date of this Order. These refunds shall be issued within thirty (30) days of receipt of this Order and shall include interest at the rate of 12% per annum. Equal Net shall file with

the Commission all necessary information to certify that the refunds have been made.

11. Equal Net shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

12. This Order shall remain in full force and effect until further Order of the commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR 12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.

*THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION, MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER DEPOSITS.

- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING _____.

*THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3 ABOVE).